



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Patent Application of:

Kenji ITOH et al.

Serial No. 09/412,510

Filed: October 5, 1999

For: PROCESS FOR TREATING A SUBSTRATE WITH
A PLASMA

) Confirmation No.: 9753

) Group Art Unit: 1762

) Examiner: Marianne L Padgett

)

) Date: September 29, 2005

REQUEST FOR RECONSIDERATION

MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated June 7, 2005, Applicants respectfully request reconsideration and withdrawal of the rejections of the claims, for the reasons provided below.

Section 5 of the Action includes a rejection of claims 42-86 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-17 of U.S. Patent No. 6,001,432 ("the '432 patent") in view of Jansen et al. (U.S. Patent No. 5,073,785). This rejection is respectfully traversed.

The '432 patent was applied in a double patenting rejection in an Office Action dated July 5, 2002, which issued in connection with this application. In response, Applicants submitted the following remarks regarding the '432 patent in a response filed on December 5, 2002:

Applicants also traverse a possible future rejection of claims 42-72 since the process of claims 42-72 relate to an etching process (claims 42-45) and an "ashing" process (claims 46-72), each of which are the opposite of the deposition process or film forming process of claims 1-2, 4-5, 7-9 and 11-15 of the '432 patent. Consequently, the obviousness-double patenting rejection over the claims 1-2, 4-5, 7-9 and 11-15 of the '432 patent would not apply to the instant claims 42-72.

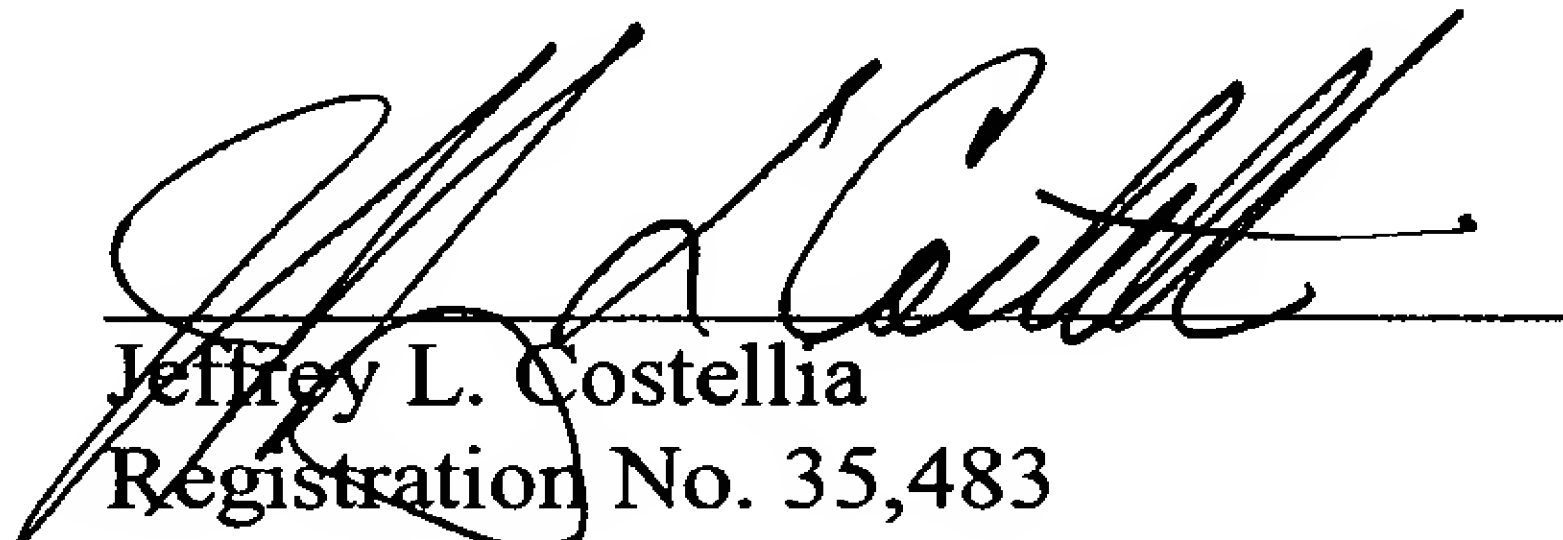
(see, page 12, lines 8-13) (emphasis in original). Applicants respectfully submit that these statements apply to all pending claims 42-86. Furthermore, Applicants submit that the modification proposed by the Examiner, which would involve modifying the deposition

processes recited in the '432 patent claims to a processes of etching or ashing, would change the principle of operation of the '432 patent claims. As instructed in MPEP §2143.01, however, a such modifications or combinations would be insufficient to render the present claims *prima facie* obvious. Therefore, this rejection is improper and should be withdrawn.

The Office Action also includes provisional rejections of all pending claims 42-86 under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over various combinations of claims 42-44, 53-58, 60-62 and 64-69 of co-pending Application No. 09/438,581 alone or in combination with secondary references. The cited co-pending Application No. 09/438,581 is currently pending and under appeal. In view of the above remarks, and as provided in MPEP §804 (p. 800-19), it is respectfully requested that the Examiner withdraw these rejections and permit the instant application to issue as a patent.

In view of the foregoing, it is respectfully requested that the rejections of record be reconsidered and withdrawn by the Examiner, that claims 42-86 be allowed and that the application be passed to issue without further delay.

Respectfully submitted,



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